

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

400A0215

## HOUSE BILL NO. 1038

Introduced by: The Committee on Commerce at the request of the Department of Labor

1 FOR AN ACT ENTITLED, An Act to repeal certain reporting requirements of workers'  
2 compensation insurance carriers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-20-21 be amended to read as follows:

5 58-20-21. Any insurer writing workers' compensation insurance in this state shall offer to  
6 conduct or contract for annual workplace safety review services, including review reports with  
7 written recommendations for improved safety procedures, to each of its insureds whose policy  
8 premium is five thousand dollars or more. ~~A copy of the written recommendations shall be sent~~  
9 ~~by the insurance company to the Department of Labor annually.~~ No written recommendation  
10 prepared by an insurer pursuant to this section is subject to discovery or disclosure under chapter  
11 15-6 or any other provision of law or admissible as evidence in any action of any kind in any  
12 court or arbitration forum. However, the recommendation may be disclosed to a subsequent  
13 insurer of the employer. Compliance with this section does not constitute an undertaking by an  
14 insurer to supplant any responsibility its insured may otherwise have for workplace safety. Any  
15 employer subject to this section shall have workplace safety reviews conducted by ~~his~~ the

1 employer's insurer at least once every three years. If an insurer makes a written recommendation  
2 to correct a safety deficiency pursuant to § 58-20-21, including failure to post safety posters as  
3 required by § 62-2-11, and it has not been corrected at the time of a subsequent safety review,  
4 the insured shall be subject to an appropriate increase in premium as determined by the insurer  
5 subject to the approval of the director. The insurer is not responsible for inspecting for  
6 compliance with federal or state safety laws or regulations.